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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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10 EDMOND WADE GREEN,
11 #56695,

12 *Petitioner,*

13 vs.
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15 BRIAN E. WILLIAMS, SR., *et al.*,

16 *Respondents.*
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2:07-cv-00605-KJD-GWF

ORDER

18 This habeas matter under 28 U.S.C. § 2254 comes before the Court on petitioner's
19 application to proceed *in forma pauperis* (#2) and his motion (#1) for appointment of counsel.

20 On the pauper application, the Court finds that petitioner is able to pay the filing fee of
21 five dollars (\$5.00); and the application therefore will be denied.

22 On the motion for appointment of counsel, the Sixth Amendment right to counsel does
23 not apply in habeas corpus actions. See *Knaubert v. Goldsmith*, 791 F.2d 722, 728 (9th Cir.),
24 *cert. denied*, 479 U.S. 867 (1986). However, 18 U.S.C. § 3006A(a)(2)(B) authorizes a district
25 court to appoint counsel to represent a financially eligible habeas petitioner whenever "the
26 court determines that the interests of justice so require." The decision to appoint counsel lies
27 within the discretion of the court; and, absent an order for an evidentiary hearing, appointment
28 is mandatory only when the circumstances of a particular case indicate that appointed

1 counsel is necessary to prevent a due process violation. See, e.g., *Chaney v. Lewis*, 801 F.2d
2 1191, 1196 (9th Cir.1986), *cert. denied*, 481 U.S. 1023 (1987); *Eskridge v. Rhay*, 345 F.2d
3 778, 782 (9th Cir.1965), *cert. denied*, 382 U.S. 996 (1966). Having reviewed the petition, the
4 request for counsel, and the remaining papers on file, the Court finds that the interests of
5 justice do not require that counsel be appointed at this juncture.

6 IT THEREFORE IS ORDERED that the application (#2) to proceed *in forma pauperis*
7 is DENIED. Petitioner shall have thirty (30) days from entry of this order within which to have
8 the filing fee of five dollars (\$5.00) sent to the Clerk of Court. Failure to comply will result in
9 the dismissal of this action without prejudice.

10 IT FURTHER IS ORDERED that petitioner's motion (#1) for appointment of counsel
11 is DENIED.

12 IT FURTHER IS ORDERED that the Clerk of Court shall send petitioner two copies of
13 this order. Petitioner shall make the necessary arrangements to have one copy of this order
14 attached to the check paying the filing fee.

15 DATED: May 16, 2007.

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KENT J. DAWSON
United States District Judge